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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories

Report of the Secretary-General

1. The present report is submitted pursuant to General Assembly resolution 64/92, the operative part of which reads as follows:

> *The General Assembly,*
>
> ...
>
> 1. *Reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;
>
> 2. *Demands* that Israel accept the de jure applicability of the Convention in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967, and that it comply scrupulously with the provisions of the Convention;
>
> 3. *Calls upon* all High Contracting Parties to the Convention, in accordance with article 1 common to the four Geneva Conventions and as mentioned in the advisory opinion of the International Court of Justice of 9 July 2004, to continue to exert all efforts to ensure respect for its provisions by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, and other Arab territories occupied by Israel since 1967;

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4. *Reiterates* the need for speedy implementation of the relevant recommendations contained in the resolutions adopted by the General Assembly at its tenth emergency special session, including resolution ES-10/15, with regard to ensuring respect by Israel, the occupying Power, for the provisions of the Convention;

5. *Requests* the Secretary-General to report to the General Assembly at its sixty-fifth session on the implementation of the present resolution.

2. On 19 July 2010, the Secretary-General addressed a note verbale to the Government of Israel, in which he requested, in view of his reporting responsibilities under the above-mentioned resolution, that the Government inform him of any steps it had taken, or envisaged taking, concerning the implementation of the relevant provisions of the resolution.

3. No reply had been received at the time of the preparation of the present report.

4. By a note verbale dated 19 July 2010, sent to all permanent missions, the Secretary-General drew the attention of all the High Contracting Parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) to operative paragraph 3 of General Assembly resolution 64/92. The Secretary-General requested, in view of his reporting obligations under resolution 64/92, information regarding any steps the High Contracting Parties had taken or envisaged taking concerning the implementation of that resolution.

5. On 3 August 2010, the Permanent Mission of the Sultanate of Oman replied to the note verbale, affirming the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory and informing the Secretary-General of the Sultanate's readiness to take the necessary actions in that regard.

6. On 6 August 2010, the Permanent Mission of the Republic of the Sudan replied to the note verbale, confirming its status as a High Contracting Party to the Fourth Geneva Convention and affirming the applicability of that Convention to the Occupied Palestinian Territory, including East Jerusalem, and the other Arab territories occupied by Israel since 1967. The Sudan emphasized that Israel had direct responsibility for protecting all civilians in those territories, and expressed its support for the International Court of Justice's advisory opinion of 9 July 2004, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, in particular paragraph 151 of the advisory opinion. In addition, the Sudan requested that Israel make reparations for damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem. The Sudan also expressed its regret for the non-compliance by Israel with the Fourth Geneva Convention and asked that Israel meet its obligations under international humanitarian law and human rights law.

7. On 6 August 2010, the Permanent Mission of Mexico replied to the note verbale, affirming the applicability of the Fourth Geneva Convention to all occupied territories, including Palestinian territories occupied since 1967. Mexico also noted that it had consistently called for Israel to fulfil its obligations as an occupying Power, with the objective of ensuring effective protection for civilians living under occupation. Mexico further noted that it had called for all parties to the conflict to respect international humanitarian law at all times.

8. On 10 August 2010, the Permanent Mission of the Republic of Cyprus replied to the note verbale. In its reply Cyprus recalled its adherence to the Geneva Conventions and noted provisions of its domestic legal framework that governed criminal liability and jurisdiction arising from grave breaches thereof. Cyprus also noted that such provisions provided that breaches of article 147 of the Convention might result in criminal prosecutions, indictments, trials and punishment, irrespective of where the offence was committed.

9. On 13 August 2010, the Permanent Mission of the Syrian Arab Republic replied to the note verbale, affirming the applicability of the Fourth Geneva Convention to the occupied Syrian Golan, emphasizing in particular articles 25, 26, 30 and 143 of the said Convention, and underlining that Israel's imposition of laws, jurisdiction and administration was null, void and without international legal effect. The Syrian Arab Republic also expressed dismay at Israel's advertising and distribution of products made in the Golan Heights as being of Israeli origin, in contravention of Security Council resolution 497 (1981) of 17 December 1981 and General Assembly resolution 64/185 of 21 December 2009. Further, the Syrian Arab Republic condemned a bill passed by the Israeli Knesset on 9 December 2009, which made withdrawal of Israel from the Golan Heights subject to approval by 80 per cent of all Israelis by way of a referendum, and noted that the said bill constituted a violation of Security Council resolution 497 (1981). Finally, the Syrian Arab Republic stressed concerns regarding minefields in the Golan Heights that had resulted in serious injuries to the residents of the occupied Syrian Golan.